57.

SUPREME COURT OF THE UNITED STATES.

No. 120.

HARDIN P. BOSTICK, ASSIGNEE IN BANKRUPTCY OF ANDREW J. JETTON, APP'T,

vs.

BENJAMIN F. JETTON & AL.

ON APPEAL FROM THE DISTRICT COURT U. S., FOR THE MIDDLE DIST. OF TENNESSEE.

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J. & G. S. Gideon, printers.

MIDDLE DISTRICT OF TENNESSEE, *ss:*

At a district court of the United States, begun and held at Nashville, in and for the district aforesaid, on the first Monday in September, being the first day of the month, in the year of our Lord one thousand eight hundred and forty-five, and in the 70th year of the independence of the United States. Present, the honorable John Catron, one of the associate justices of the Supreme Court of the United States, and the hon. Morgan W. Brown, judge of the courts of the United States for the district of East, Middle, and West Tennessee.

HARDIN P. BOSTICK, assignee in bankruptcy of Andrew J. Jetton, comp't,
vs.
BENJAMIN F. JETTON & als., def'ts.

Be it remembered, that heretofore, to wit, on the 13th day of June, 1843, Hardin P. Bostick, assignee in bankruptcy of Andrew J. Jetton, filed his original bill in said court, against Benj. F. Jetton & als., as follows, to wit:

Bill.

To the judge of the district court of the United States, for the middle district of Tennessee, sitting in bankruptcy.

Hardin P. Bostick, assignee in bankruptcy of Andrew J. Jetton, late of Rutherford county, deceased, brings this his bill against the heirs at law of the said bankrupt, that is to say, against Benjamin F. Jetton, an infant under twenty-one years of age, Thomas Turner, and his wife Sarah A., sister of said bankrupt, John Brothers, Robert Brothers, Andrew W. Brothers, Nancy Brothers, and Sarah Brothers, children of Benj. Brothers, and his wife Jane, a sister of said bankrupt, and minors under twenty-one years of age, and against Robert B. Jetton, administrator of said bankrupt, and against the trustees and executors of the last will and testament of Robert Jetton, father of said bankrupt, namely Robert B. Jetton, Benjamin Brothers, and Thomas Turner, all of Rutherford county, Tennessee.

And thereupon your orator complains, and says, that Robert Jetton, the father of said bankrupt, made and subscribed his last will and testament, on the 21st day of August, 1840, and it was duly proved and admitted to record in the county court of Rutherford county, where the testator resided at the time of his death, at January sessions of said court, 1841, and the execution thereof committed to the defendants Robert B. Jetton, Benjamin Brothers, and Thomas Turner; to a copy of which will, on file in the proceedings in bankruptcy in this case, reference is here made, and the same is to be taken as part of this bill.

That said last will and testament contains the following clause: "I give to A. J. Jetton, in trust, the Wilson Shoal plantation, two hundred

acres more or less, the negroes he now holds by loan, viz: Cloe, Burkley, and Dick, and Judy, and all the stock, household, and kitchen furniture, farming tools of every description, that he may have on the farm, and all the rents, profits, and increase of stock, from this time forward so long as he shall live, in trust for his benefit. And I here nominate and appoint Robert B. Jetton, Benjamin Brothers, and Thomas Turner, trustees, to manage and take charge of the property in the following manner, for the benefit of him his natural life, and his heirs after him; but should he die, leaving no child or children, then in that case, it shall return to the children of his brothers and sisters; but should he have children, or a child, his wife shall have her dower on the land during her widowhood, and his child or children shall inherit the whole property so given or intended to be conveyed."

That the personal property mentioned in said clause and its increase, and therein stated to be held by said bankrupt by loan, had, before the probate and recording of said will, remained in the said bankrupt's possession for the space of five years, without any demand made and pursued by due process at law, on the part of the pretended lender, nor declared by any deed or will in writing proved and recorded, as by the statute in such case made and provided is directed and required; and your orator therefore avers, that the absolute property was in the said bankrupt, and ought to be distributed in this court. That on the 28th of March, 1842, the said bankrupt filed in this court an additional schedule of property, in which the property thus given, or assumed to be given, in the will of his father, is specified article by article, with all the increase of the same since the said loan was made, which schedule concludes as follows: "If the court should be of opinion that he is bound to make a surrender thereof, then he will do so; but if the court should be of opinion that he is not bound to make a surrender thereof, of course he will not do so; and cannot, as the legal title is in the trustees aforesaid." To which schedule your orator refers, and prays that the same may be taken as part of this bill. That since the filing of this additional schedule the said bankrupt has departed this life, leaving no child; and the persons named in the introductory part of this bill, his heirs at law and personal representatives, and said heirs at law are also the executory devisees of said property under said will. That the death of said bankrupt, intestate and without children, before the court had construed said will, cast whatever right to said property the said will could convey, on the said personal representatives and heirs at law of said bankrupt, or upon said executory devisees, and the said property has been taken into their or some of their hands, and is claimed by them in some one or another of said characters or capacities.

That to have the right of said property settled and declared, it has become necessary to file this bill, which is done by your orator at the request of the creditors of said bankrupt.

To the end, therefore, that the said defendants may, if they can, show why the said property should not be declared to be the absolute property of the said bankrupt, and be distributed as such in this court, according

to the provisions of the bankrupt law, and that your orator may have general relief in the premises, may it please your honor to grant subpœnas ad respondendum, issuing, &c., directed, &c., commanding said defendants to answer:

1. Whether the said Robert Jetton did not make and publish his last will and testament as herein stated; and whether the copy on file in the proceedings in bankruptcy aforesaid, is not a true copy thereof?

2d. Whether the said bankrupt did not file the additional schedule herein referred to?

3d. Whether the said bankrupt did not die intestate, and without any child?

4th. Whether the persons herein named are not his personal representatives and heirs at law; and if not, what persons are?

5th. Whether the same persons who are his heirs at law, are not also executory devisees of the same property under said Robert Jetton's will; and whether they do not claim the same as such heirs or executory devisees?

6th. Whether the executors and trustees of said Robert Jetton's will have ever had possession of said property at any time; and who has the possession at this time?

7th. Whether the possession of the personal property, in the said will mentioned, and its increase as specified in said additional schedule, had not remained in said bankrupt's possession for the space of five years or more, before the probate and recording of the will of said Robert Jetton?

And as in duty bound your orator will ever pray.

R. J. MEIGS, *Sol.*

Exhibit A.—Exhibit A.

I, Robert Jetton, of the county of Rutherford, and State of Tennessee, being in good health, and of sound mind, and knowing the certainty of death and the great uncertainty of life, I do ordain this my last will and testament. Item first. I give my soul to God who gave it; my body to be buried in a plain and decent manner. Item 2d. I give unto my beloved wife the use and benefit of my plantation whereon we now live, during her natural life or widowhood; I also give her five negroes of her choosing; I give her my carriage and horses, her riding mare, five head of cattle, ten head of sheep, twenty head of hogs, all the kitchen and household furniture, or so much as she may wish, and such farming tools as she may need, a cart, and yoke of oxen; I give unto my three children that are married, the property that they are now in possession of; to A. J. Jetton, in trust, the Wilson Shoal plantation, 200 acres, more or less, the negroes he now holds by loan, viz: Cloe, Burkley, and Dick, and Judy, and all the stock, household and kitchen furniture, farming tools of every description, that he may have on the farm, and all the rents, profits, and increase of stock from this time forward so long as he shall live, in trust for his benefit; and I here nominate and appoint Robert B. Jetton, Benjamin Brothers, and Thomas Turner, trustees to manage and take charge of the property, in the fol-

lowing manner, for the benefit of him his natural life, and his heirs after him; but should he die leaving no child or children, then, in that case, it shall return to the children of his brothers and sisters; but should he leave children, or a child, his wife shall have her dower on the land during her widowhood, and his child or children shall inherit the whole property so given or intended to be conveyed.

I give unto Robert B. Jetton, two hundred acres of land, where he now lives, to be laid off on the south end of my tract, in such a manner as to make it as convenient as may be, adjoining Childress, Hallyburton McMurry's heirs and others; I also give him the negroes he is now in posession of, viz., Lewis, George, Aaron, Hannah and Cloe, and Cloe's child, and all the stock, farming tools, that he is now in the possession of. I give unto Sarah A. Turner, a tract of land I purchased of Wm. Rowton, containing one hundred and ten acres adjoining Robert Watson and Wm. Brock, I also give two town lots in Murfreesboro' in the west end of town, adjoining Hannah and Hamelton, opposite the jail, numbers not recollected, and I give her the negroes she is now in possession of, to wit, Sam, Dorcus, Norcessee and her two children, and all the property now in her possession heretofore given to her; I give unto Wilson B. Franklin Jetton, two hundred acres of the land where I now live, at the death of his mother, beginning at Runkin's corner in the lane, it being the southeast corner, ruuning north with the road, and continue a straight direction crossing the branch to James Wilson's line, and so far west as will make the two hundred acres, and during the life of his mother he shall have the use and benefit of the land I purchased of Anderson Childress, James Montgomery, adjoining the land of Carney and Yardly, then the land so used shall belong to my estate generally; if any of my children should die leaving no heirs, or all their children die minors, so there is none to inherit, then the property I have given them shall return to their brothers' and sisters' children. I give unto the children of my deceased daughter, viz., Nancy Brothers, John, Robert, Andrew White and Sarah A. Brothers, the plantation I purchased from John Cooper, and part of R. Hallyburton, lying on the west fork of Stones river, whereon J. Featherton's family now , containing by estimation one hundred and thirty acres, *by* the same more or less; I also give them ten acres of cedar land I purchased of Edward Elam, and they are to have the rents and profits accruing therefrom from the first day of January, 1841; I also give them two hundred dollars each, to aid and assist in their education. I also give them, as they arrive of age or when they settle, Nancy and Sarah, a negro girl apiece, not less than eight years old, and John, Robert and Andrew White, a boy each, not less than eight years old. I then direct *at* of the remaining part of my estate, all my perishable property be sold on a credit by my executors at 12 months, and every surplus article, stock, and every thing else remaining, and the debts to be well secured, and all my notes and accounts collected, and all my just debts to be speedily paid; if it should not be sufficient, my executors *is* authorized and requested to sell any of my land not given away by this will, or any *twain* property, or w estern district land, so that my just debts be speedily paid. I give unto my son Franklin five

negroes, to be equal in value to any lot given to either of my other children heretofore; I also give him, as it may be needed, one thousand dollars, to aid in finishing his education and studying a profession; and then all the remaining property, after all things shall have been settled and paid, shall be divided into five distributive shares, the children of my deceased daughter receiving one share jointly, and each of my surviving children one share and share alike; but that proportion of A. J. Jetton's share shall be held in trust, by the trustees heretofore appointed, for the purposes above mentioned And I appropriate so much money as my executors may think necessary to provide comfortably for my old and afflicted and infirm servants; and it is my will that none of my slaves be sold, only for crime, but that they remain in the family, be treated with kindness, humanity, and with a spirit of forbearance; I have written this with my own hand, signed with my own seal, and do nominate Robert B. Jetton, Benjamin Brothers, and Thomas Turner, to be my executors.

Given under my hand and , this 21st day of August, 1840.

ROBERT JETTON. [L. S.]

STATE OF TENNESSEE,
Rutherford county.

County court, January term, 1841.

The execution of the foregoing last will and testament of Robert Jetton, deceased, was duly proved in open court, at the above named term, by proving the handwriting of the said Robert Jetton, deceased, by the oath of Charles Ready, James Wilson, Thomas N. Wendel, Charles Anderson, and David B. Malloy, and was ordered to be recorded.

ROB'T S. MORRIS, *Clerk*.

STATE OF TENNESSEE,
Rutherford county.

I, Robert S. Morris, clerk of the county court of said county, do hereby certify, that the forgoing is a true and perfect copy of the last will and testament of Robert Jetton, deceased, as the same stands of record in my office.

Given under my hand at office, this 7th January, 1841.

ROB'T S. MORRIS, *Clerk*.

Exhibit B.—Exhibit B.

Additional schedule of property rendered by Andrew J. Jetton, upon his application to be declared a bankrupt, 200 acres of land in Rutherford county, known as the Wilson Shoal tract.

The following slaves, to wit: Cloe, Buckley, Dick, Judy, Bill, Calvin, Rilla, and her three children, Alfred, Jane, and Robert, and Moses. Also seven head of horses, twenty-five head of stock hogs, five head of cows, eight head of sheep, six ploughs, two harrows, eight weeding hoes, five pair of gear, one bed, bedstead, and furniture, one china press, one small sideboard, half dozen split bottom chairs, two ovens, two skillets, two pots, one kettle, one tea kettle.

The foregoing property was devised by the last will and testament of petitioner's father, to Robert B. Jetton, Benjamin Brothers, and Thomas Turner, as trustees to manage and take charge of, for the benefit of petitioner, during his natural life, and his heirs after him; but should he die, leaving no child or children, then, in that case, said property to return to the children of petitioner's brothers and sisters; all of which will appear from a copy of the last will and testament of Robert Jetton, petitioner's father, herewith filed. Petitioner has the possession of said property under the authority and by the consent and permission of said trustees, subject to their control and management. He renders a schedule of it, in order that the court may judge whether he is bound to make a surrender of it, or of the rents and profits thereof, for the benefit of his creditors or not. If the court should be of opinion, that he is bound to make a surrender thereof, then he will do so; but if the court should be of opinion that he is not bound to make a surrender thereof, of course he will not do so, and cannot, as the legal title is in the trustees aforesaid.

A. J. JETTON.

Sworn to in open court, March 28, 1842.

JACOB W. GAVOCK, *Clerk*.

Process of Subpœna.

Whereupon process of subpœna issued, as prayed for in said bill, and were returned duly executed.

And on the 31st day of August, 1843, the defendants filed their joint answer to said bill, which is as follows, to wit:

Answer.

The joint answer of Benjamin F. Jetton, John Brothers, Robert Brothers, Andrew W. Brothers, Nancy Brothers, and Sarah Brothers, all of whom are minors, under the age of twenty-one years, and who answer by their regular guardian, Robert B. Jetton; and of Sarah Turner, and her husband, Thomas Turner, and of Robert B. Jetton and Benjamin Brothers, to the bill of complaint of Hardin P. Bostick, assignee in bankruptcy of Andrew J. Jetton, deceased, filed in the district court of the United States for the middle district of Tennessee, sitting in bankruptcy. These respondents, making all the necessary and usual reservations and exceptions to said bill of complaint, to answer thereto, or so much or such parts thereof as they are advised it is material for them to answer unto, answer and say, that it is true Robert Jetton, deceased, left a last will and testament, which was proven and recorded, and which appointed the executors as charged; and a true copy of which, as respondent believes, was filed with the proceedings in bankruptcy by said A. J. Jetton, and made a part of said bill. Of the executors thus appointed, respondents, Thomas Turner and Robert B. Jetton, only qualified, gave bond, and took upon themselves the burthen of its execution. It is true that Andrew J. Jetton filed his petition in bankruptcy, and the proceedings were had under said peti-

tion, as charged in the bill, when he, said Andrew J. Jetton, died intestate, and respondent, Robert B. Jetton, has been regularly appointed his administrator. It is true that respondent, Robert B. Jetton, Benj. F. Jetton, and Sarah Turner, are the only surviving brothers and sisters of the said Andrew J. Jetton, and that said John Brothers, Robert Brothers, Andrew W. Brothers, Nancy Brothers, and Sarah Brothers are the only children of Jane Brothers, who was a sister of said Andrew J. Jetton, deceased. Respondent Robert B. Jetton has two children, to wit, Andrew C. and John W. Jetton, both of whom are infants, and are not made parties. Respondents Sarah Turner and her husband have three children, to wit, Amanda W., Robert, and Ephraim Turner, all of whom are infants, and are not made parties. Respondents submit to the court the question as to who are the executory devisees of the property devised by the will of said Robert Jetton, deceased, to said Andrew J. Jetton; but will state that they are advised that the brothers and sisters, children of said Andrew J. Jetton, living at his death, are the said executory devisees, and not his brothers and sisters. It is true that said Andrew J. Jetton died without issue. Respondent Benjamin Brothers, who is appointed an executor by the will of said Robert Jetton, not having qualified as such, has taken no part in controlling the business of said estate, either as executor or trustee under the same, but the whole has been managed by respondents Turner and R. B. Jetton. It is untrue that said Andrew J. Jetton had five years' possession, in any way, of any portion of the property, real or personal, devised or bequeathed by said will of Robert Jetton, deceased. The property devised and bequeathed for the benefit of said A. J. Jetton, by the will of said Robert Jetton, in the first clause of said will, relating to him, was placed in the possession of said Andrew J. Jetton by said Robert Jetton, in the year 1840; and a deed, evidencing their agreement and the acceptance of the deed, under seal, was made and duly registered in the register's office of Rutherford county, where both the parties resided at the time, and until their death. This agreement, duly authenticated, is herewith filed as a part of this answer, marked (exhibit A.) All the property mentioned in this instrument was in the possession of said A. J. Jetton at the death of said Robert Jetton, and said A. J. Jetton kept it in his possession until his death; except the portion of said property that he dispossessed himself of in the manner hereinafter shown.

All the other property devised for the benefit of said Andrew J. Jetton, by the will of said Robert Jetton, came to the possession of the executors of said Robert Jetton, and was by them placed in the possession of said A. J. Jetton. Of the property devised for the benefit of said Andrew J. Jetton, by the will of said Robert Jetton, the said Andrew J. Jetton, without the knowledge or consent of the executors and trustees aforesaid, carried off, and perhaps sold, the following slaves, to wit, Moses, Alfred, Burkly, and Judy. Moses is in Alabama, and claimed by a man by the name of Morusk, against whom respondents, Turner and R. B. Jetton, have caused a suit to be instituted for his recovery. The last that was heard of Alfred, he was in the possession of, and claim-

ed by John Muritt, of Williamson county; but when a formal demand was made by respondent Turner of said boy Alfred from said Murett, he denied having him. The others, Burkly and Judy, respondents know nothing of. All the other property devised as aforesaid for the benefit of said A. J. Jetton, by said will of Robert Jetton, deceased, is in the possession or under the control of respondents, Robert B. Jetton and Thomas Turner, and they claim to hold the same subject to the trusts and executory devises of said will of Robert Jetton, deceased, and in no other way. Having now answered all the material allegations of said bill, respondents pray to be hence dismissed with their costs in this behalf expended; and as in duty, &c.

REEDY & SNEED,
Solicitors.

STATE OF TENNESSEE, *Rutherford county:*

This day personally appeared before me, John G. Bostick, an acting justice of the peace and commissioner in bankruptcy for said county, Thomas Turner, and his wife, Sarah Turner, Robert B. Jetton, and Benjamin Brothers, and made oath in due form of law, that the facts stated in the foregoing answer are true as therein stated, to the best of their knowledge, information, and belief.

ROBT. B. JETTON,
BENJAMIN BROTHERS,
SARAH TURNER,
THOMAS TURNER.

Sworn to and subscribed before me, this 30th day of August, 1843.
JOHN G. BOSTICK,
Justice of the peace, and commissioner in bankruptcy.

Exhibit A.—Exhibit A.

Know all men by these presents, that I, Robert Jetton, of Rutherford county, Tennessee, have agreed to employ my son, Andrew J. Jetton, to take charge of my Wilson Shoals farm in the county aforesaid, on the west fork of Stone's river, adjoining the lands of David Dickinson above, and of William Mitchell below, and of the hands which I have or may hereafter place upon said farm, consisting for the present of Cloe, Buckley, Judy, and Dick, and of all the stock of every description and farming utensils which I now have, or may hereafter have, on said farm; which farm is to be managed and cultivated by my said son, with the hands, stock, farming utensils, &c., as aforesaid, according to the best of his skill and ability, for my use and benefit, and for no other purpose whatsoever; for which services my said son is to have, out of the proceeds of said farm under his management, a necessary support for himself and his family. And it is one object of this instrument to declare, that I have not and do not, intend to part with my right and title to said farm, negroes, stock, and farming utensils, or the proceeds of said farm; but that I hereby reserve the same to myself, my heirs and assigns, as

fully as if I were myself in the personal possession and management of the same. In witness whereof, I have hereunto set my hand and seal, this 15th day of August, 1840.

ROBERT JETTON. [SEAL.]

I hereby agree to take charge of the farm above specified, upon the terms expressed in the foregoing instrument. Witness my hand and seal the day and date above.

A. J. JETTON. [SEAL.]

STATE OF TENNESSEE, *Rutherford county:*

Personally appeared before me, Robert S. Morris, clerk of the county court of said county, the within named Robert Jetton and Andrew J. Jetton, the bargainers, with whom I am personally acquainted, and who acknowledge that they executed the within deed for the purposes therein contained. Witness my hand at office, this 15th day of August, 1840.

ROBERT S. MORRIS,
Clerk.
By JNO. WOODS, *Deputy.*

STATE OF TENNESSEE, *Rutherford county.*

REGISTER'S OFFICE, *August 17th*, 1840.

The within deed and probate thereof are duly registered in my office, in book Y, page 105.

JOHN WOODS, *Register of said county.*

Replication.

H. P. BOSTICK, ass'ee and comp.,
vs
B. F. JETTON and als., defts.

The replication of the complainant to the answer of the defendant. This respondent, saving and reserving to himself all and all manner of advantage and benefit of exception which may be had or taken to the manifold errors, uncertainties and insufficiencies, to the answer of said defendant, for replication thereto says, he will aver, maintain, and prove his said bill to be true, certain, and insufficient in law to be answered unto by said defendants, and that said answer is untrue, uncertain, and insufficient in law to be replied unto by this repliant. All which matters and things this repliant is ready to aver, maintain, and prove, as this honorable court shall direct, and hereby prays as in and by his said bill he has already prayed.

R. J. MEIGS,
Sol. for comp.

September rules, 1843. Set for hearing on bill, answer, and replication, by complainant's counsel.

And said cause was continued until September term, 1845, at which time the following decree was entered :

Decree.

This cause came on to be heard, and was heard upon the bill, answers, replication, exhibits, and evidence, and in the presence of counsel on both sides. On consideration whereof the court doth adjudge, order, and decree, that the bill of the complainant be dismissed with costs.

Appeal granted.

On motion of the complainant, by his counsel, an appeal is granted him in this cause to the next Supreme Court of the United States, and thirty days is allowed him to give bond and security.

Bond.

Know all men by these presents, that we, Hardin P. Bostick, assignee of A. J. Jetton, a bankrupt, and George A. Sublete and Samuel Winston, are held and firmly bound unto Thomas Turner & als., in the sum of five hundred dollars; which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 27 Sept., 1845.

The condition of the above obligation is such, that whereas, the above bound H. P. Bostick prayed and obtained an appeal to the Supreme Court of the United States, held at Washington city, on a decree pronounced in the district court of the United States for the middle district of Tennessee, at September term, 1845, in the case therein pending, wherein said H. P. Bostick, assignee of A. J. Jetton, was complainant, and said Thomas Turner and als. were defendants, wherein the court dismissed said complainant's bill with costs. Now, if the said H. P. Bostick, assignee, &c., shall well and truly prosecute said appeal with effect, or in case of failure pay all the costs of said suit, then the above obligation to be void, else to remain in full force and effect.

(Signed) GEO. A. SUBLETE, [SEAL.]
" SAM'L WINSTON. [SEAL.]

STATE OF TENNESSEE, *Rutherford county:*

I have this day proceeded to take the depositions of William H. Powell, William T. Bryant, Samuel H. Hodge, and N. C. Dill, witnesses on behalf of the complainant, in a certain matter of controversy in the district court of the United States in the district of Middle Tennessee, at Nashville, depending between Hardin P. Bostick, assignee of A. J. Jetton, in bankruptcy, complainant, and Robert B. Jetton & als., defendants; the said witnesses, after being duly sworn on the holy evangelist to speak the truth, the whole truth, and nothing but the truth, concerning the matters in dispute between the parties in dispute, deposeth as follows, to wit:

Deposition of Powell.

The following are the answers of William M. Powell.

Question first, by complainant.

fully as if I were myself in the personal possession and management of the same. In witness whereof, I have hereunto set my hand and seal, this 15th day of August, 1840.

ROBERT JETTON. [SEAL.]

I hereby agree to take charge of the farm above specified, upon the terms expressed in the foregoing instrument. Witness my hand and seal the day and date above.

A. J. JETTON. [SEAL.]

STATE OF TENNESSEE, *Rutherford county:*

Personally appeared before me, Robert S. Morris, clerk of the county court of said county, the within named Robert Jetton and Andrew J. Jetton, the bargainers, with whom I am personally acquainted, and who acknowledge that they executed the within deed for the purposes therein contained. Witness my hand at office, this 15th day of August, 1840.

ROBERT S. MORRIS,
Clerk.
By JNO. WOODS, *Deputy.*

STATE OF TENNESSEE, *Rutherford county.*

REGISTER'S OFFICE, *August 17th*, 1840.

The within deed and probate thereof are duly registered in my office, in book Y, page 105.

JOHN WOODS, *Register of said county.*

Replication.

H. P. BOSTICK, ass'ee and comp.,
vs
B. F. JETTON and als., defts.

The replication of the complainant to the answer of the defendant. This respondent, saving and reserving to himself all and all manner of advantage and benefit of exception which may be had or taken to the manifold errors, uncertainties and insufficiencies, to the answer of said defendant, for replication thereto says, he will aver, maintain, and prove his said bill to be true, certain, and insufficient in law to be answered unto by said defendants, and that said answer is untrue, uncertain, and insufficient in law to be replied unto by this repliant. All which matters and things this repliant is ready to aver, maintain, and prove, as this honorable court shall direct, and hereby prays as in and by his said bill he has already prayed.

R. J. MEIGS,
Sol. for comp.

September rules, 1843. Set for hearing on bill, answer, and replication, by complainant's counsel.

And said cause was continued until September term, 1845, at which time the following decree was entered :

Decree.

This cause came on to be heard, and was heard upon the bill, answers, replication, exhibits, and evidence, and in the presence of counsel on both sides. On consideration whereof the court doth adjudge, order, and decree, that the bill of the complainant be dismissed with costs.

Appeal granted.

On motion of the complainant, by his counsel, an appeal is granted him in this cause to the next Supreme Court of the United States, and thirty days is allowed him to give bond and security.

Bond.

Know all men by these presents, that we, Hardin P. Bostick, assignee of A. J. Jetton, a bankrupt, and George A. Sublete and Samuel Winston, are held and firmly bound unto Thomas Turner & als., in the sum of five hundred dollars; which payment, well and truly to be made and done, we bind ourselves, our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 27 Sept., 1845.

The condition of the above obligation is such, that whereas, the above bound H. P. Bostick prayed and obtained an appeal to the Supreme Court of the United States, held at Washington city, on a decree pronounced in the district court of the United States for the middle district of Tennessee, at September term, 1845, in the case therein pending, wherein said H. P. Bostick, assignee of A. J. Jetton, was complainant, and said Thomas Turner and als. were defendants, wherein the court dismissed said complainant's bill with costs. Now, if the said H. P. Bostick, assignee, &c., shall well and truly prosecute said appeal with effect, or in case of failure pay all the costs of said suit, then the above obligation to be void, else to remain in full force and effect.

(Signed) GEO. A. SUBLETE, [SEAL.]
" SAM'L WINSTON. [SEAL.]

STATE OF TENNESSEE, *Rutherford county:*

I have this day proceeded to take the depositions of William H. Powell, William T. Bryant, Samuel H. Hodge, and N. C. Dill, witnesses on behalf of the complainant, in a certain matter of controversy in the district court of the United States in the district of Middle Tennessee, at Nashville, depending between Hardin P. Bostick, assignee of A. J. Jetton, in bankruptcy, complainant, and Robert B. Jetton & als., defendants; the said witnesses, after being duly sworn on the holy evangelist to speak the truth, the whole truth, and nothing but the truth, concerning the matters in dispute between the parties in dispute, deposeth as follows, to wit:

Deposition of Powell.

The following are the answers of William M. Powell.

Question first, by complainant.

State what you may know in relation to the possession, on the part of Andrew J. Jetton, deceased, of the following property, to wit: two hundred acres of land, in Rutherford county, called the "Wilson shoal tract;" the slaves Cloe, Burkley, Dick, Judy, Bill, Calvin, Rilla and her three children Alfred, Jane, and Robert, and Moses. Whether at any time the above property was in the possession of said A. J. Jetton, deceased; if so, when such possession commenced, and how long it continued.

Answer. About the first of March, 1841, I went to live with A. J. Jetton, deceased; he had then possession of Burkley, Cloe, Judy and Dick; he got possession of the other slaves, included in the interrogatory, a day or two afterwards, I think. He sold Burkley and Judy during the same year, (1841;) Dick, Bill, and Calvin were in his possession (remained on his place, at least,) to the time of his death.

Interrogatory 2d. At what time did the said A. J. Jetton remove to the western district of this State, and what property did he carry with him when he went there?

Answer. I went to that part of the State in the year 1840. I went to the farm on which the said A. J. Jetton had lived; he had left there, I think, one or two years before I went there. I do not know how long he had remained there. In the month of January, 1836 or 1835, I do not recollect which, he returned from that part of the State, bringing with him negroes, (I remember the names of two of them, Bony and Tom,) to work upon a turnpike road in the county of Rutherford, in which his father resided. He commenced living on the tract of land mentioned, the Wilson Shoal tract, in the year 1841.

Cross examined by defendants.

Ques. 1. Who employed you to go and live upon the western district farm; and state if you know whose farm and negroes it was?

Ans. Col. Robert Jetton, the father of A. J. Jetton, employed me. The farm and negroes then belonged to Col. Robert Jetton.

Ques. 2d. State if Robert B. Jetton, a younger son of Col. Robert Jetton than Andrew J., did not also attend to and manage the Western District farm for his father during the cultivation of one crop?

Ans. He went away from Rutherford county, and was absent some part of a year, but I do not know how long; I had the same kind of information about his being there, that I had about Andrew J. being there.

Ques. 3d. State from what source Andrew J. Jetton got possession of the negroes mentioned in complainant's first question?

Answer. They all came from Col. Robert Jetton's, or from his estate.

Ques. 4th. You say Andrew J. Jetton sold Burkley and Judy in the year 1841; will you state whether it was without the knowledge or consent of Robert B. Jetton and Thos. J. B. Turner?

Ans. They were not there when he sold them, and I know they did not know when he sold them. I know nothing about whether they did or did not give any previous consent.

Question 5. You have stated that in 1835 or 1836, Andrew J. brought some negroes from the western district to Rutherford county, to work on a turnpike road. Please state now for whom they were to work on said road, and if he brought them here as his own negroes, or the negroes of some other person.

Answer. He brought them to work for his father, who, together with Col. Bradford, was an undertaker on the road. I never heard him set up any claim to the negroes. I had seen some of the negroes at Col. Jetton's; they were a part of his family negroes.

Re-examined on part of complainant.

Question 1. Were any of the negroes, mentioned in the first interrogatory in chief, carried to Alabama and sold; if so, when and by whom, and which of them?

Answer. I heard Thomas J. B. Turner, (the co-executor of Robert B. Jetton,) speaking of their having sued some person in the State of Alabama for one of those negroes, which, as I understood from his conversation, A. J. Jetton, deceased, had sold there without a right to do so.

Interrogatory 2d. Do you know to what purpose the money received for the negro sold in Alabama, (of which you have spoken,) or for those sold by A. J. Jetton, deceased, at his house, (to which you have before referred,) were applied?

Answer. In payment for the negroes mentioned, (which he, A. J. Jetton, sold at his house,) he took in a note which was outstanding against him; the amount of that note was eight hundred dollars, or thereabouts; he also got some money.

Question 3d. Did you ever hear Robert B Jetton or Thomas J. B. Turner speak of suing for those negroes which A. J. Jetton sold at home, or do you know of their having instituted any such suit?

Answer. I never heard them speaking about instituting such a suit, nor do I know that they have done so.

Question 4th. Did A. J. Jetton have in his possession, at the same time with the negroes, the following property, to wit, seven head of horses, twenty-five head of stock hogs, five head of cows, 8 head of sheep, six ploughs, two harrows, 8 weeding hoes, five pair of gear, one bed, bedstead and furniture, one china press, one small sideboard, half dozen split bottom chairs, two ovens, two skillets, two pots, one kettle, and a tea kettle.

Answer. He had property of the kind mentioned in the interrogatory, but I cannot state how much of each.

Question 5th. Do you know whether any of the money received for the sale of either of the negroes mentioned, came to the hands of Robert B. Jetton or Thomas J. B. Turner?

Answer. I do not.

Question 6th. Did A. J. Jetton, while he had the property mentioned in his possession, use and treat it as his own?

Answer. He did.

Question by defendants. Were the negroes, which A. J. Jetton sold

at home, kept in Rutherford county, or were they carried to parts unknown?

Answer. They were immediately carried off by the purchaser, (a man named Thurston,) who said he was going to take them to Mississippi. I do not know when they were taken, nor do I know that the defendants have ever ascertained where they were taken.

Ques. by same. Do you know of defendants ever sanctioning the sale of any of said negroes; on the contrary, did they not disapprove of it when it came to their knowledge?

Answer. I do not know of their sanctioning the sale. I do not remember to have heard them say any thing on the subject, except as before stated. Suit was brought for the one sold in Alabama.

W. M. POWELL.

Depo. of Miller.

Adjourned, by consent of the parties, 7 Sept., 1814.

Alfred Miller, being sworn for complainant, states, upon voir *doir:* That he has two small notes, which were made to him by A. J. Jetton, deceased; that he has not filed them for a dividend out of the assets in bankruptcy, but expects to file them, if it is not too late. Witness did not file said claims, because A. J. Jetton told witness not to file them, that he intended to pay them; whereupon defendant excepts to the competency of said witness to give testimony in this cause; which exception, together with the testimony of the witness, is referred to the court.

Question first by complainant. State any conversation you ever had with Col. Robert Jetton, relative to land and negroes, which he had placed in the possession of his son, A. J. Jetton, (now deceased,) whilst he resided in the western district?

Answer. Col. Jetton, speaking of his son, A. J. Jetton, asked witness if his son, the said A. J. Jetton, was in the habit of gambling to the knowledge of witness. Witness answered that he never knew of his gaming, with the exception of horse-racing to some extent; that A. J. Jetton told witness, however, that he had abandoned the practice, and would never race any more. He, Col. Jetton, asked me if I thought his son, A. J. Jetton, was steady, and would adhere to his resolution and reform; to which witness answered that he believed that he would. Col. Robert Jetton then told witness that his son had made the same promise to him, and that he had confidence in him, and would assist him. That he had given him a farm and negroes in the western district. This conversation was about the first part of the year 1837. The expressions used were, that he had given a plantation and ten negroes in the district to his son.

Cross examined by defendants.

Question 1. Where was A. J. Jetton living at the time the conversation above mentioned with his father took place?

Answer. I think he was living with his father, in Rutherford coun-

ty. He was about town, (Murfreesboro') mostly; and I think he had his washing done at, and considered his father's house his home.

2d. Where did A. J. Jetton live after that time, until his death?

Answer. He was absent from Murfreesboro', from the time he left here in 1837, until he returned and married in this Rutherford county, from which time he resided here, till his death. When he returned, he staid at his father's until he married; but I don't remember the length of time certainly; I would think something like six months. He was married in 1839, and lived afterwards about three years.

3d. Did you know of his ever going to the western district to attend to his plantation, after his return here, six months previous to his marriage?

Answer. I never knew of his going back, after he returned to Rutherford county, in 1839.

Question 4th. In the conversation you have mentioned with his father, did he not tell you, he had not, and did not intend to place any property in A. J. Jetton's hands, so that he would have the right to dispose of it, or so that it could be taken from him?

Answer. He did not say.

Question 5th. Were you not then a creditor of A. J. Jetton, having the same debts against him you now have, and do you not know he was then largely indebted; most of the debts he owed at his death having been created before that?

Answer. I was then a creditor of A. J. Jetton, having the same debts against him I now have. I do not personally know much about his debts. I don't know whether most of his debts were created before that or not. I have not a personal knowledge of more than about twelve hundred dollars before that.

Question 5th. Did you not, after the conversation above mentioned with A. J. Jetton's father, apply to him, (the father,) to pay the debts you held against his son?

Answer. Col. Jetton asked me if they were paid; I told him they were not. He then asked me to hold off, that he was about renting his tavern in Murfreesboro' to Mr. Smith, and would pay my claims out of the rent of said tavern. He afterwards did rent the tavern, and paid me out of it one of my notes against A. J. Jetton of one hundred dollars, leaving the two notes I now hold, one being for ninety-five dollars, the other ninety-eight dollars, due first Feb'y, 1838. The one paid was, I think, for ninety-seven dollars, besides interest. The reason why I did not get my other two notes paid out of the rent was, that Robert Morris, who was security for the rent, held a note on A. J. Jetton, which his father paid out of the rent, which only left a balance sufficient to lift one of my notes.

Re-examined.

Question by complainant. Do you know whether or not A. J. Jetton had lived, or spent a good deal of his time, in the western district previous to the above conversation with Col. Jetton?

Answer. I think he had resided in the district previous to that conversation, but I do not know what length of time.

Question by the same. State whether the debts due to you from A. J. Jetton were not for money lent him by you?

Answer. They were for money lent. And furthermore this deponent sayeth not.

ALFRED MILLER.

Defendants except [to] the foregoing deposition, as far as it purports to prove the conversations of Col. Robert Jetton, the father of A. J. Jetton.

Deposition of R. J. Smith.

Robert J. Smith being next sworn, says:

Question first by complainant. State if you were at the farm of A. J. Jetton, in the western district; if so, when was it? Did you see A. J. Jetton, what property did he have, and what occurred between yourself, your father, and said A. J. Jetton?

Answer. I was never at the farm of said A. J. Jetton. A. J. Jetton met with us at Sommerville in the fall of 1837, and continued with us all the ensuing winter.

Question 2. How long had A. J. Jetton been living in the district at the time he met you at Sommerville?

Answer. I do not know the precise time, but it was two or three years.

Cross examined by defendants.

Question 1. Do you know A. J. Jetton had a farm in the western district?

Answer. I do not.

Question 2. Did you know what business A. J. Jetton was engaged while he lived in the western district?

Answer. I have heard him say he was clerking in a store there for his father.

Question by complainant. Did you hear him speak of farming in the district, and of raising horses during the time he had lived there?

Answer. No, I did not.

Complainant excepts to the answer to defendant's first question.

And furthermore this deponent sayeth not.

ROBERT J. SMITH.

Deposition of Robert Smith.

Col. Robert Smith being next sworn.

Question 1. Do you know at what time A. J. Jetton went to live in the western district, how long he lived there, and at what he was engaged?

Answer. I do not know when he went there; he found me in the district in the fall of 1837, and continued with me as far as New Orleans; he had been living in the district previous to that time. He was

living on a farm the summer previous to that, but how long I do not know. A. J. Jetton, whilst with me, spoke of blooded colts he was raising in partnership; he started with some horses which he sold out. A. J. Jetton told me, that his father had agreed to give him the Wilson Shoal place, in Rutherford county, for the farm in the western district.

Question by defendant. Did A. J. Jetton tell you his father was to give him the Wilson Shoal farm in exchange, or did he simply say his father had agreed to give it to him?

Answer. He told me he was going to quit the district and take that place, and he did take it and died there.

And furthermore this deponent sayeth not.

ROBERT SMITH.

Continued by consent of the parties until Friday, the 20th instant.

Deposition of Cowan.

Varner D. Cowan, the next witness, being sworn for complainant, deposeth and says:

Question first by complainant. State at what time Col. Robert Jetton put his son A. J. Jetton in possession of a plantation and ten negroes in the western district. How long A. J. Jetton kept possession of said property, whether you know of A. J. Jetton's selling or exchanging any of said property with any other person, or with the said Col. Robert Jetton?

Answer. I don't know that he ever put him in possession of the property. I know that A. J. Jetton lived there a while, but I don't know that Col. Jetton ever gave A. J. Jetton the negroes, or that he exercised any ownership over them. A. J. Jetton first went to Sandy, in Carroll county, attending to a store Col. Jetton had there; probably as early as 1832. A. J. Jetton stayed there a year or so, and then went into Gibson county, where Col. Jetton had a farm. A. J. Jetton only exercised ownership over some hands whilst there, as far as I know. I think that A. J. Jetton was on the farm in Gibson county as early as 1834. A. J. Jetton did not bring any of the negroes from the farm in the district when he settled in Rutherford. A. J. Jetton married in 1839, and settled on the farm in Rutherford county, January, 1841. In 1840, he attended to his father's business. A. J. Jetton sold Barclay and his wife in the year 1841. I was at his house when the purchaser came after them, but they did not tell me any thing about his selling them. In 1842, he sold Moses and Alfred. Witness did not know that the negroes were sold until after they were gone. Col. Jetton was in the habit of giving his children land and negroes as soon as they married.

Cross examined by defendants.

Question 1. Do you not know that Col. Robert Jetton continued to own the farm in Gibson county, and all the negroes on it, as long as he lived?

Answer. Yes he did; he contracted and executed repeated acts of ownership over them; he frequently sent negroes from his farm in Rutherford to Gibson, and then brought them or others back; he was engaged at one time in erecting a public building in Trenton, Gibson county, and sent a number of his negroes from Rutherford there on account of it; then being engaged in road making in this part of the State, he at one time had hands brought from the Gibson county farm to aid in that; Col. Robert Jetton sold and received the proceeds of the crops raised on the farm in Gibson county; when A. J. Jetton was at the farm in Gibson, his business was to attend to the farm for his father; the facts stated about selling and receiving the proceeds of the crops, I know only from common report in the family, and from hearing Col. Jetton speak of it; I know of A. J. Jetton attending to the business on the farm for his father in the same way; I never heard A. J. Jetton say any thing on the subject; I know that Col. Jetton was very scrupulous about that time about putting any thing in his son's hands, as he regarded him as a prodigal; I knew this from hearing Col. Jetton frequently speak about it.

Question 2d. When A. J. Jetton settled on the farm in Rutherford, after his marriage, and his father placed him in possession of some negroes, do you not know, from Col. Jetton's declaration before and at the time, and afterwards, that he did not give him any right to the negroes, but only allowed him to have the benefit of their labor?

Answer. I know from Col. Jetton's declarations before and after that he did not intend, and had not given him any title to any of the negroes or property put in his possession; that he only intended him to have the use of it.

Question 3d. State if A J. Jetton did not exercise much secrecy in selling the negroes Burkley and his wife, and in sending off and selling the other negroes.

Answer. Yes, I think he did.

Question 4th. Did he sell any of those negroes before his father's death?

Answer. He did not.

Question 5th. You have stated, in answer to one of complainant's interrogatories, that Col. Robert Jetton was in the habit of giving his children land and negroes when they married; will you state if he was in the habit of making them a title to land?

Answer. I think not; I never knew him to make a title to any of them.

Question 6th. Do you not know, from Col. Jetton's declarations, that he did not intend to make A. J. Jetton a title to any thing after his marriage, on account of his great embarrassment with debt and his prodigality?

Answer. From what Col. Jetton told me, I never believed he would make him a right to any thing.

Question 7th. State if you were intimate with Col. Robert Jetton and his family, having been connected with it by marriage.

Answer. I was; I married Col. Jetton's daughter, who afterwards died, and has no living issue; she died many years before her father.

Complainant excepts to all that part of witness' testimony which details the declarations of Col. Robert Jetton, included in his answers to 1, 2, 3, and other questions by defendants.

He excepts to answer to 3d question.

And further this deponent saith not.

V. D. COWAN.

Adjourned by consent of parties until Monday, the 4th of November next.

Depo. of Puckett.

MONDAY, *November 4th*, 1844.

Charles Puckett being next sworn, deposeth as follows:

In the fall of 1836, I had a conversation with Col. Robert Jetton about the pecuniary condition of his son, Andrew J. Jetton; I told him I was afraid he (Andrew J.) would run through his property before he paid me the debt he owed me. He smiled or laughed, and said Jackson was an honest man, and would pay me; he further said that Jackson (viz. Andrew J.) had land and negroes.

Question by defendants:

1. Has the debt yet been paid which you then had against Andrew J. Jetton?

Answer. Not a dollar of it; but I have no claim against A. J. Jetton for it; I sold the judgment to George A. Sublete; I took his note and gave him up the judgment, without any recourse on me; Sublet has not yet paid me his note, or any part of it.

his
CHARLES × PUCKETT.
mark.

Alfred Miller, being next called, says: I adopt the deposition heretofore given by myself and now on file in the case, except so much thereof as relates to my interest in the suit since that deposition was taken. I have sold my claims against the estate to Gordon W. Shanklin, without recourse, and I am now in no way whatever interested in the suit.

Question 1, by defendant. State for whose benefit Gordon W. Shanklin purchased said claims; was it for himself or some other person; and if for another, who?

Answer. For himself, so far as I know; but he told me he would not have bought them, but was solicited by Geo. A. Sublet to do so.

2d. Did he tell you whether or not he made the purchase with his own funds, or was he furnished with funds by Sublett, and what did he tell you on that subject?

Answer. He gave me his own note, payable next Christmas twelve months, for twenty-three dollars.

Question by same. Was not the purchase made to divest you of your

interest, so as to make you a witness in this cause; and did you not sell them with the expectation of becoming a witness for Sublet?

Answer. I did not myself sell them for that purpose. I guessed what was their views. I anticipated being called on as a witness for Sublet when I sold them.

Re-examined. States that Gordon W. Shanklin is amply good for the note he gave me for said claims, whether he ever gets any thing from the estate of A. J. Jetton or not.

ALFRED MILLER.

It is agreed that the deposition heretofore taken and referred to in that of Miller's above given, shall be read with the qualification made above, as if it had been retaken or incorporated in the same, subject to all other exceptions that may be taken to it.

HARDY M. BARTON,
Counsel for the assignee.
CHARLES READY,
Attorney for defendants.

STATE OF TENNESSEE, *Rutherford county:*

I do hereby certify, that the enclosed five sheets of paper contain the depositions, which is all in the handwriting of the attorneys for the complainant and defendants, taken by the consent of the parties, except the caption which is in my own handwriting; and that the same was taken before me at my house in Murfreesborough, in the county and State aforesaid, on the day set forth in the caption and mentioned in the adjournments, and it has not been out of my possession, or in any wise altered, added to, or changed, since it was signed by the said W. M. Powell, Alfred Miller, Robert J. Smith, Robert Smith, Varner D. Cowan, Charles Puckett, and Alfred Miller, a second time, this 4th day of November, 1844.

JOHN G. BOSTICK, *Justice of the peace, Rutherford county, State of Tennessee.*

Justice fee not paid,		$7 00
Sheriff's fee,	-	75 cts.
" "	-	75 "

STATE OF TENNESSEE, *Rutherford county:*

November 18*th*, 1844.

I have this day caused to come before me, James F. Henderson, aged about thirty-three years, and John Elliott, aged about thirty-five years, in obedience to commission hereto annexed, and taken their depositions, to be read in evidence in a certain matter of controversy in the circuit court of the United States, in the seventh circuit, for the district of west Tennessee, depending between H. P. Bostick, assignee of A. J. Jetton, complainant, and Robert B. Jetton and others, at my office in Murfreesboro', Rutherford county, Tennessee, in the presence of—

Depo. of Henderson.

The said James F. Henderson, after being duly sworn upon the holy evangelist of Almighty God, to speak the truth, the whole truth, and nothing but the truth, deposeth and says:

Question by complainant. State whether or not you were acquainted with A. J. Jetton when he lived in Trenton, Tennessee; and if so, state at what time he lived there, and if he did not have property, negroes, &c., under his own control then.

Answer. The letter which is appended to this deposition, and marked exhibit No. 1, was written by A. J. Jetton to me at the time of its date, and is in the handwriting of said Jetton, who was living at or near Trenton at that time. I visited him again in 1838; he was living then there. I was advised by Col. Robert Jetton, the father of A. J. Jetton, to make that visit, and take property from A. J. for a debt he then owed me, or I was then security for him, and was likely to have it to pay. He then borrowed from the bank in Trenton five hundred dollars, and paid the debt, or nearly so; he lived one mile and a half or two miles from Trenton, upon a farm, and had a number of negroes; and from A. J. Jetton's conversation to me when I was there, they, (that is) the farm and negroes, belonged to A. J. Jetton; and further this deponent saith not.

JAS. F. HENDERSON.

Sworn to and subscribed before me, November 18, 1844.

B. W. FARMER, *J. P.*

TRENTON, *July 2d*, 1836.

DEAR FRANK: I received yours Tuesday week, for which I must apologize for not answering sooner; the reason why was, matters would not admit of my coming to town on the day the mail left for the East. You say you want to sell your interest in our blooded stock, which I was not a little surprised to hear of. I think you [stand] in your own light about that, tho' it is presumed every man knows his own business best. Your father stated you would take $400 dollars for your part; that is a great deal less than I would be willing to take for my interest, altho' I would rather you would keep them than for me to buy them at this time. I have no doubt, if you would keep them two years longer, you could sell the same mare and colts for more than you ask, and have the balance left for a stock clear of all expense; but if you are determined to sell, I must take them. I wrote to father about it; I thought it might suit him to buy them, but I don't know whether he has received the letter or not; I sent it by hand; if he has not, you must keep them until I come up; but I can't say when I can pay you for them until I see you. I don't want any body else for a partner except you, father, or White, tho' I am in hopes you have declined the notion of selling. I have nothing more, only I have just seen the hardest fight I ever saw, between two western district Hooziers.

I remain your sincere friend,

A. J. JETTON.

J. F. HENDERSON.

I shall be at home about the 5th of this month. Give my compliments to your father and family.

A. J. JETTON.

J. F. HENDERSON.

Commissioner then adjourned until to-morrow, 10 o'clock.

Deposition of Elliott.

Tuesday morning, 10 o'clock, November 19, 1844, commissioner and parties met, pursuant to adjournment.

Question by complainant. State, Mr. Elliott, all you know about property given to A. J. Jetton by his father, and at what time A. J. Jetton took possession of said property, and when he it?

Answer. A. J. Jetton took possession of some property in Gibson county, in a few miles of Trenton, in the fall of 1834; there was some ten or fifteen negroes, and some land; there were some six grown negroes, and, I think, as many as twelve or fifteen in all; there were some stock, and wagon, and other farming utensils. Col. Robert Jetton stated to me that he had made A. J. Jetton interested in all his concerns in the *on the* farm; my understanding of the matter is, that he had entire control and possession of the property until 1840; I was several times by there in those years, and saw him there.

And further this deponent saith not.

JOHN ELLIOTT.

I certify that the foregoing deposition was taken before me at the time and place, in the presence of parties set forth in the caption, and that it is all in my handwriting, and that I am in no wise related to either of the parties, or am I of counsel or attorney for either, or in any wise interested in the event of the suit. The said depositions have not been altered, added to, or amended, since they were signed by the parties.

Given under my hand and seal, November 19, 1844.

B. W. FARMER,
Justice of the peace and commissioner.

Commissioner's fee,	$2 00
Serv. of wit.	1 00
Service of notice,	50
	$3 50

STATE OF TENNESSEE, *Davidson county:*

The 22d day of February, 1843. I have on this day proceeded to take the deposition of John Elliott, a witness for the defendants, about the age of twenty-five years, at my office, in the town of Nashville, Davidson county, Tennessee, in obedience to the enclosed commission, to be read as evidence in a suit now pending before the district court of the United States, for the middle district of Tennessee, wherein Hardin P. Bostick, assignee in bankruptcy, is complainant, and Robert B. Jetton and others are defendants, the said John Elliott, after being

sworn on the holy evangelist to speak the truth, the whole truth, and nothing but the truth, concerning the matters in dispute between the said parties, deposes as follows:

Examination of John Elliott.—*Deposition of Elliott.*

Question by complainant's counsel. Your deposition was taken in this case on the 19th of November, 1844, and you answered the plaintiff's question, as appears in the deposition. The object now is, to have you to state the particulars of the information set forth in that deposition. Therefore, be pleased to state what opportunities you enjoyed to know what you there state; also the names of the negroes mentioned in your said answer.

Answer. I was in partnership with Col. Robert Jetton, from June, 1830, unto his death, in building a turnpike across Sandy river and swamp in Carroll county, of which we were equal owners; we were also partners in selling goods at the same place, from 1832 to 1836, and we were partners in building a part of the Nashville and Murfreesborough turnpike, from the year 1832 to the fall of 1835, during all of which time Col. Jetton and myself were frequently together; we were particularly friendly, he conversed freely with me about his business; I had a good opportunity of becoming familiar with his affairs of the farm in Gibson county; when Jackson Jetton took possession, which was about the fall of 1834 or '35, there was an old negro man named Harry, his wife, and some five or six children, and a man by the name of Sam; and, some time in the same fall, say November, I sent, by Col. Jetton's order, a negro man named Moses, one named Calvin, and Boney, with a wagon and team, to the farm in Gibson county; shortly after these negroes were sent to the farm in Gibson, Col. Jetton said to me that he had made his son Jackson interested in the concern, in order to stimulate him, and try to get him to do better. Some time after the above named negroes were sent to the farm in Gibson, a negro man named Burkly, and his wife, was sent; can't state the exact time. After Jackson Jetton returned to Rutherford county, he told me he had sold Burkly and his wife for about twelve hundred dollars; he also took Moses to Alabama and sold him, and he sold one other boy in Williamson county for about four hundred and twenty five dollars.

Question 2d. What did you hear Robert B. Jetton, one of the present defendants say about this suit?

Answer. Robert B. Jetton said to me about the time this suit was revived, that he was willing that what property Jackson had in possession should go to pay his debts as far as he, Robert B. Jetton was concerned, provided he could be released as guardian for his sister's children; and further this deponent saith not.

JOHN ELLIOTT.

I certify that the foregoing deposition [is] all in my handwriting, that the same was taken before me on the day and at the place in the cap-